



RECEIVED

SEP 10 2008

September 10, 2008

WA STATE BOARD OF HEALTH

Dear State Board of Health members,

Whatcom County Health Department recommends the following items be addressed prior to the adoption of the proposed school rule in order to achieve successful implementation.

General:

1. WSDOH must provide local health jurisdictions and school officials with an inspection report form and a revised Health and Safety Guide.
2. WSDOH must provide relevant training to LHJ personnel (including NPSI training for playground inspections) to assure knowledge of inspection protocols.

Rule Section:

3. 246-366A-020: an imminent health hazard needs to include Norovirus outbreaks affecting 10% or more of a school population.
4. 246-366A-030: define who can conduct an Environmental Site Assessment (ESA).
5. 246-366A-060(9)(c): specify hand washing to include a sink that can deliver hot water to the faucet within 15 seconds, with single use soap and single use paper towels.
6. 246-366A-060(9)(d): adjoining restroom should be restricted to health room use only, not school students or staff.
7. 246-366A-065: prohibit the use of carpeting (regardless of water impervious backing) in Health Rooms and within 36 inches of all plumbing fixtures.
8. 246-366A-125(2): require hot water to arrive at hand washing fixtures within 15 seconds.
9. 246-366A-165(7): specifically require hand washing sinks in barns, shops, art rooms, and laboratories.

Thank you for the opportunity to comment.

A handwritten signature in cursive script, appearing to read "John Wolpert".

**PUBLIC TESTIMONY – David Harton (09/10/08)**

**From:** Washington Federation of Independent Schools [mailto:jmorrison@wfis.org]  
**Sent:** Wednesday, September 10, 2008 8:33 PM  
**To:** Bernard, Nancy (DOH); Jennings Judy (WFIS); dharton8909@comcast.net  
**Subject:** Fw: New Health and Safety Regulations

David,

I am forwarding your message to the Dept. of Health so it may be included in the comments they are receiving.

**Jan**

Jan L. Morrison, Assistant to the Director  
Washington Federation of Independent Schools  
435 Main Avenue South  
Renton, WA 98057  
Telephone: 425.228.WFIS (9347)  
Fax: 425.228.9348  
E-Mail: [jmorrison@wfis.org](mailto:jmorrison@wfis.org)

----- Original Message -----

From: "David Harton" <[dharton8909@comcast.net](mailto:dharton8909@comcast.net)>  
To: <[jmorrison@wfis.org](mailto:jmorrison@wfis.org)>  
Sent: Wednesday, September 10, 2008 1:55 PM  
Subject: New Health and Safety Regulations

> New Health and Safety Regulations  
>  
> I have been following the process as best that I can, regarding the new  
> proposed Health and Safety regulations. I watched the public hearing in  
> Spokane on our local TV channel.  
>  
> I have concerns that new regulations will cost my school and other private  
> schools money that we do not have. Because of the bad economy, I have lost  
> enrollment this year and I am way under budget.  
>  
> Public schools were testifying that this would be another unfunded mandate  
> to add to all of the other unfunded mandates they have.  
>  
> I would hope that someone/group could persuade the H&S people to exempt  
> private schools from any regulations that would cost us additional dollars.  
> At this point I have don't even have a clue as to what impact the new  
> regulations would have on us since in many instances they are very  
> technical.  
>  
> Anything you can do to help us will be greatly appreciated.  
>  
>  
> --  
> Dave Harton  
> Principal  
> Spokane Christian Academy  
> [www.spokanechristianacademy.org](http://www.spokanechristianacademy.org)  
> [dharton8909@comcast.net](mailto:dharton8909@comcast.net)  
> 509.924.4888  
> 509.924.0432 (fax)

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**From:** Jim Hale [Jimwpesc@comcast.net]  
**Sent:** Wednesday, September 10, 2008 2:48 PM  
**To:** DOH EH School Rule  
**Subject:** WPSC Comments Regarding Proposed New Regulation  
**Attachments:** WPSC Comments Wash. State Proposed Reg. .pdf

Mr. Therien,

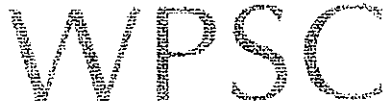
Please see the attached *Wood Preservative Council Comments Regarding Proposed New Regulation Chapter 246-366A WAC, Primary and Secondary Schools.*

If you have any questions, please don't hesitate to call.

Respectfully submitted,  
Jim Hale

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Jim Hale  
Executive Director  
Wood Preservative Science Council  
P.O. Box 183  
Manakin Sabot, VA 23103  
Tel: 804.239.8466  
[www.woodpreservativescience.org](http://www.woodpreservativescience.org)

9/18/2008



Wood Preservative Science Council

September 10, 2008

Ned Therien  
Washington State Department of Health  
101 Israel Road SE  
P.O. Box 47990  
Olympia, WA 98504

**Re: Wood Preservative Science Council Comments Regarding Proposed New  
Regulation Chapter 246-366A WAC, Primary and Secondary Schools**

Dear Mr. Therien:

This letter provides the Wood Preservative Science Council's (WPSC)<sup>1</sup> comments regarding the proposed restrictions on the use of creosote and CCA-treated wood for outdoor structures on school grounds. Based on the existing uses of CCA-treated wood and its safe history when used as recommended, the WPSC finds the proposed regulations pertaining to treated wood unnecessary and misleading.

The WPSC has concerns with the following sections of the proposed rules:

*WAC 246-366A-060 General construction requirements. School officials shall:*

*(8) Prohibit the use of chromated copper arsenate or creosote treated wood where it is accessible to students.*

*WAC 246-366A-150 Playgrounds - Construction and installation requirements. School officials shall:*

*(d) Prohibit the use of chromated copper arsenate or creosote treated wood to construct or install playground equipment or landscape and other structures on which students may play.*

*WAC 246-366A-155 Playgrounds - Operation and maintenance requirements. School officials shall:*

*(2) Prohibit the use of chromated copper arsenate or creosote treated wood to repair or maintain playground equipment or landscape and other structures on which students may play.*

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<sup>1</sup> The WPSC is a trade association of manufacturers of water borne wood preservatives. It supports and participates in objective scientific analysis of water borne wood preservatives with a focus on CCA. We are supported by our members, Arch Wood Protection, Inc., Chemical Specialties Inc., and Osmose Inc. The WPSC consults with the nation's leading experts in the fields of environmental science, epidemiology, risk assessment, and toxicology.

September 10, 2008

Wood Preservative Science Council Comments Regarding Proposed New Regulation, Chapter 246-366A WAC, Primary and Secondary Schools

### **The Proposed Regulations are Unnecessary and Misleading**

The proposed prohibitions on the use of wood treated with CCA to construct, repair or maintain structures such as playground equipment or other landscape structures are unnecessary because the current United States Environmental Protection Agency (EPA)-approved pesticide labels for the wood preservative chromated copper arsenate (CCA) do not allow these uses. The pesticide registrations for CCA products were modified as a result of a voluntary agreement reached in February 2002 between the registrants and EPA, in order to transition to a new generation of preservatives for most non-industrial applications. After January 1, 2004, following label amendment, CCA can no longer be used to treat wood for most non-industrial uses, including play structures, decks, picnic tables, landscaping timbers, residential fencing, patios, and walkways/boardwalks.<sup>2</sup> CCA continues to be sold to treat wood for many industrial, commercial and agricultural uses, such as marine and freshwater pilings, utility poles and cross arms, and highway structures (e.g., bridge components, guardrails, posts). Because the CCA manufacturers amended their EPA-approved pesticide labels to effectuate these changes, the use changes are enforceable by EPA and the states.

Based on our reading of the proposed regulations, they do not prevent the use of CCA or creosote treated wood utility poles, sign posts, or guardrail posts on or near school grounds. Unfortunately, the regulations are not clear in this regard because the language "*where it is accessible to students*" could be interpreted to prevent these approved and safe uses anywhere on school grounds. If the proposed restrictions on treated wood are adopted, utility poles, and roadside sign and guardrail posts should be exempted from the regulation.

### **There are No Unacceptable Risks Associated with CCA-Treated Wood Use**

EPA recently completed an assessment of potential risks to children who play on CCA-treated play sets and decks<sup>3</sup>, and concluded that there are no unacceptable risks to the public for existing CCA-treated wood being used around homes. In its April 2008 advice to consumers, the Agency states the following: "*EPA does not believe there is any reason to remove or replace CCA-treated structures, including decks or playground equipment.*" "*EPA is not recommending that existing structures or surrounding soils be removed or replaced.*"<sup>4</sup> Further, EPA has not recommended that there is any need to take steps such as applying coatings to minimize exposure.

<sup>2</sup> Specific information on the approved uses of CCA can be found at:  
[http://www.epa.gov/oppad001/reregistration/cca/awpa\\_table.htm](http://www.epa.gov/oppad001/reregistration/cca/awpa_table.htm)

<sup>3</sup> "A Probabilistic Risk Assessment for Children Who Contact CCA-Treated Playsets and Decks, Final Report, April 16, 2008". US Environmental Protection Agency Office of Pesticide Programs, Antimicrobials Division.

<sup>4</sup> "Chromated Copper Arsenate (CCA): Consumer Advice Related to CCA-Treated Wood, Current as of April 30, 2008". US Environmental Protection Agency Office of Pesticide Programs.

September 10, 2008

Wood Preservative Science Council Comments Regarding Proposed New Regulation, Chapter  
246-366A WAC, Primary and Secondary Schools

In 2001 the US Consumer Products Safety Commission (CPSC) was petitioned to require play sets made from CCA-treated wood to be removed. Based on extensive analysis by Commission staff and public comment from some of the nation's leading scientific and medical experts, the CPSC concluded that no regulatory action was necessary or appropriate with respect to existing structures. The CPSC denied the petition in 2003.

**WPSC Recommendations**

In sum, the proposed rules are unnecessary because they prohibit the use of CCA-treated wood for uses that are no longer permitted under federal law. In addition, the proposed rules raise unwarranted safety concerns regarding CCA-treated wood and could be misinterpreted to prevent its use in applications for which it is approved, such as utility poles, and roadside sign and guardrail posts.

The WPSC recommends that WAC 246-366A-060, WAC 246-366A-150, and WAC 246-366A-155 be deleted from the proposed rules. Alternatively, if these proposed rules are adopted, all EPA-approved uses, including utility and transportation related uses, should be exempted from the prohibitions.

Thank you for considering our comments and recommendations. Please feel free to contact me if you have any questions or would like additional information.

Sincerely,



Jim Hale  
Executive Director, WPSC

**PUBLIC TESTIMONY – Concerned Everett Teacher**

**From:** jr [mailto:protectkats@yahoo.com]  
**Sent:** Wednesday, September 10, 2008 6:44 PM  
**To:** DOH WSBOH  
**Subject:** Rules WAC 246-366 to be adopted

September 8, 2008

To Whom It May Concern:

I am a teacher at a school building in the Everett School District. I am not stating my name or the name of the building for fear of retaliation. The District denies that there is a problem at my school. Since I have taught there for 20+ years, I know of 2 teachers that developed a brain tumor. One has since died. Three teachers and two support staff have been diagnosed with breast cancer. One is deceased, and one asked for a transfer to another building due to health issues. Two people were diagnosed and suffer from multiple sclerosis. Seven teachers have suffered from sinus infections and three suffer symptoms similar to lupus or fibromyalgia. Many have left the building with health issues.

I have been diagnosed with severe chronic sinus infections that showed on an MRI. Sinus surgery was recommended, and several years ago the turbinates were enlarged. I have taken numerous rounds of antibiotics, allergy and decongestant medications, used nasal inhalants, and used a humidifier and air purifier at home and in the classroom. I have had allergy testing done, drainage tubes inserted in my ears on 3 different occasions due to fluid accumulation, light therapy on my nasal passages, acupuncture, and have missed numerous days of work due to related illness. I have seen numerous doctors for this condition and spent thousands of dollars. At home during the summer, my symptoms disappear.

I am concerned with the safety of the building and the health of the children and staff. I am watching my colleagues get sick and some die. The health of the students and staff is too important to wait any longer. Please allow these Rules WAC 246-366 to be adopted and work with the teachers and parents to strengthen them and provide the funds needed for implementation.

Thank you for your time,  
A concerned teacher

## **Proposed Chapter 246-366A WAC, Primary and Secondary Schools Additional Web Comments Received on September 10, 2008**

**Sep 10 2008 8:56PM**

Please pass the proposed School Rules WAC 246-366 now. The health of our students and staff remains at risk without these updated rules to protect them. There have been many who have asked these rules be delayed until there is funding. How can you put the health of our children before money? As a teacher, I became very ill, and watched as my students became sick, frustrated, unable to focus, and perform, let alone pass the mounting challenges of the WASL. If students are being affected by their toxic environments, then we must make changes to improve the facilities. You can not put a price on a child's health. How can you then insist children continue to attend school in buildings where they are exposed to bad air and water quality by saying there is no money to provide students a "Clean Environment". We entrust our students to our schools. We entrust the State Board of Health to make the rules to govern these facilities. We will, in turn, entrust our Government and public to ensure the monies become available to fund these changes. When a child you taught dies of brain cancer, and you know the building you taught them in was in terrible disrepair, you know these rules can wait no longer. We need to act now. Please pass WAC 246-366 As for having to state if I agree with this or not, I clicked I agree. What I am agreeing to is the need for immediate action, to pass these Rules NOW! (Selecting one, when it is not stated what we are agreeing to, is confusing, if you can't go back and check.)

**Sep 10 2008 10:30PM**

September 8, 2008 To Whom It May Concern: I am a teacher at a school located north of Seattle. I am not stating my name or the name of the building for fear of retaliation. The District denies that there is a problem at my school. Since I have taught there for 20+ years, I know of 2 teachers that developed a brain tumor. One has since died. Three teachers and two support staff have been diagnosed with breast cancer. One is deceased, and one asked for a transfer to another building due to health issues. Two people were diagnosed and suffer from multiple sclerosis. Seven teachers have suffered from sinus infections and three suffer symptoms similar to lupus or fibromyalgia. Many have left the building with health issues. I have been diagnosed with severe chronic sinus infections that showed on an MRI. Sinus surgery was recommended, and several years ago the turbinates were enlarged. I have taken numerous rounds of antibiotics, allergy and decongestant medications, used nasal inhalants, and used a humidifier and air purifier at home and in the classroom. I have had allergy testing done, drainage tubes inserted in my ears on 3 different occasions due to fluid accumulation, light therapy on my nasal passages, acupuncture, and have missed numerous days of work due to related illness. I have seen numerous doctors for this condition and spent thousands of dollars. At home during the summer, my symptoms disappear. I am concerned with the safety of the building and the health of the children and staff. I am watching my colleagues get sick and some die. The health of the students and staff is too important to wait any longer. Please allow these Rules WAC 246-366 to be adopted and work with the teachers and



parents to strengthen them and provide the funds needed for implementation. Thank you for your time, A concerned teacher r

**Sep 10 2008 10:37PM**

I responded under "Small Business Section" and could not transfer it to this section. I also attempted to email Ned Therien on this system and it did not work. It is my hope that you will review all catagories for additional comments as each statement is important. It is paramount the School Rules be passed now, without further delay. Our childrens health continues to be at risk without rules ad enforcement.



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SEP 12 2008

WA STATE BOARD OF HEALTH

## Washington State Senate

Olympia Office:  
PO Box 40433  
Olympia, WA 98504-0433

**Senator Karen Keiser**  
33rd Legislative District

(360) 786-7664  
TTY: 1-800-635-9993  
Toll-Free Hotline: 1-800-562-6000  
E-mail: keiser\_ka@leg.wa.gov

September 11, 2008

Treuman Katz, Chair  
Washington State Board of Health  
PO Box 47990  
Olympia, WA 98504-7990

Dear Chairman Katz-

I am writing you today to share my concerns regarding the Board of Health's (BOH) consideration of proposed changes to Chapter 246-366A of the Washington Administrative Code. Various issues have come to my attention which leads me to believe that legislative review of the proposed rules would be a prudent step prior to adoption. Therefore I am asking the Board of Health to postpone further consideration of any changes until after the 2009 Legislative session.

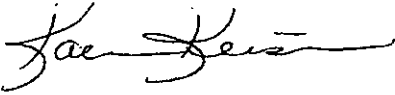
I am aware that the current WAC is outdated and does need revision. Recent events involving water and mold in schools also indicate that some districts may need assistance in directing efforts to provide safe school environments. However, a "one size fits all approach" may not be beneficial to all districts and could in fact cause financial difficulty where none need be created. For example, if a district were to test its systems for lead, find none and make no changes to the system to introduce such a hazard, is it necessary to continually test the supply? In such a situation, are we actually increasing the safety of the school environment or consistently reconfirming what we already know? I use this as one example of creating a rule which may need to be developed to allow for flexibility among districts.

At the September 10<sup>th</sup> meeting of the BOH there was also testimony centered on exemptions for small private schools due to the cost burden of compliance. I believe that at this late date, if the BOH is still considering who will or will not be included in the rules, that it is clear that further review is needed. Just this issue alone raises the question of what constitutes a small school, will public schools also be eligible, what is considered an undue burden for these schools, and how that would balance with the goals of a safe school environment.



With these concerns in mind, I strongly suggest that the Board of Health withhold any decisions until after the 2009 Legislative session, giving legislators and all parties concerned more time to examine this issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen Keiser".

Senator Karen Keiser  
Chair, Health and Long Term Care Committee  
33<sup>rd</sup> Legislative District

cc: Christina Hulet, Executive Policy Advisor, Office of the Governor  
Craig McLaughlin, Executive Director BOH  
John Welch, Superintendent, Highline School District



## Washington State Senate

Olympia Office:  
PO Box 40449  
Olympia, WA 98504-0449

**Senator Craig Pridemore**  
49th Legislative District

(360) 786-7696  
FAX: (360) 786-1999  
E-mail: pridemore.craig@leg.wa.gov

Mr. Treuman Katz, Chair  
Washington State Board of Health  
P.O. Box 47990  
Olympia, WA 98504

September 24, 2008

Dear Chair Katz and Members of the Washington State Board of Health:

I am writing to request that the Board of Health delay taking action on the School Environmental Health and Safety Rule, Chapter 246-366A WAC, until after the 2009 Legislative Session.

I support the work of the Board to ensure a safe and healthy learning environment for students statewide. I understand that the Board and the Department of Health have undergone a lengthy process to address issues raised by many divergent stakeholders. Unfortunately, the Rule is costly to implement and has come before the Board just as the State and our public schools face challenging budget constraints. As you may know, we are heading into the 2009 Legislative Session with a projected budget deficit of over \$3 billion.

Given the current budget situation, the timing of the rule implementation is of particular concern. I respectfully request that the Board delay taking action on the Rule until after the Legislature has had the opportunity to consider the Rule and to determine funding priorities for the 2009-11 Operating Budget and the Capital Budget. Thank you for your consideration.

Sincerely,

Senator Craig Pridemore  
State Senator, 49<sup>th</sup> Legislative District

cc: Craig McLaughlin, Executive Director, State Board of Health

**RECEIVED**

SEP 26 2008

WA STATE BOARD OF HEALTH





*To Protect and Promote the Health and the Environment of the People of Kittitas County*

September 10, 2008

Washington State Board of Health  
P.O. Box 47990  
Olympia, WA 98504-7990

To Whom It May Concern,

Kittitas County Board of Health and Public Health Department would like to formally submit our support for the State Board of Health's proposed update of the current school rules, WAC 246-366 (to be replaced with WAC 246-366A) with the caveat that sufficient time is allotted for local health jurisdictions to receive training, acquire staff, materials and other essential items necessary to effectively implement the regulation. Also, consideration for funding needs is critical for local health jurisdictions that do not have financial systems in place to implement the rules.

The current rules have been in place since 1971. Kittitas County is one of only nine local health jurisdictions with an active school health and safety inspection program. However, the proposed rules include new program elements that are more extensive than the current ones. The new rules add drinking water testing within the school for lead and copper contamination.

There are great concerns about the resources needed to successfully implement the new rules, even for counties that currently have school health and safety programs. WSALPHO expressed these concerns in a letter to the State Board of Health. Passage of new rules will create the expectation that local health is able to inspect schools without additional funding. Public Health Departments across the state are cutting programs and staff due to budget shortfalls.

The Washington State Department of Health is preparing a funding request so they have the resources to provide training and technical support for the new rules. If approved, the request would address some of our needs by providing training and technical assistance to local public health agencies. We greatly encourage support of the Department's proposal.

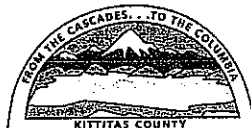
We would also support a reasonable delay to the adoption of the rules so the Legislature can look into funding issues associated with them. While we currently have the mechanism in place to bill schools for our inspections, other local health jurisdictions do not. Thank you for your consideration of our request.

Sincerely,

A handwritten signature in cursive script that reads "Catherine Bambrick".

Catherine Bambrick, Administrator

Kittitas County  
Public Health Department  
507 N. Nanum Street, Suite 102  
Ellensburg, WA 98926  
T: 509.962.7515  
F: 509.962.7581



[www.co.kittitas.wa.us/health/](http://www.co.kittitas.wa.us/health/)

Environmental  
Health Services  
411 North Ruby Street, Suite 3  
Ellensburg, WA 98926  
T: 509.962.7698  
F: 509.962.7052

**From:** janelle neil [mailto:janelleil@comcast.net]  
**Sent:** Monday, September 15, 2008 2:33 PM  
**To:** DOH WSOH  
**Cc:** 'Meade Thayer'; 'Judy Jennings'  
**Subject:** Meeting September 10th

To the members of the committee:

First and foremost, thank you for all of your hard work on student health and safety. I am equally thankful that I am not sitting in the chair next to you with the responsibility you have. It must be challenging to be required to make regulations, and then be 'under fire' for the recommendations you have made.

After attending the meetings September 10<sup>th</sup>, testifying, and hearing your concluding remarks, I have gained a greater appreciation for your job and ask that you continue to pursue safe measures for students/employees that are working in potentially 'sick buildings'. Keeping employees and children safe is of critical import.

In terms of 'how' this can be accomplished, several things need to be taken under consideration. As testimony indicated, there are many public school districts that are less-affluent than others, as well as the overwhelmingly negative impact these regulations would have upon the smaller, independent schools. There are also a number of private schools-both large and small- that will be impacted by an across-the-board rule of law.

I hope a method would arise out of these meetings that would establish regulations that do not follow a 'one-size fits all' regulatory approach. Rather the development of a rating system that would be establish levels of 'threat' to health or injury and possible interventions, enforcement, and appeal must be established along with the regulations. Thus if a situation presents a seriously danger to staff or students (similar to restaurant closures ratings), the building could be closed pending repair of named hazard. However if there is an issue (sample, venting laminators), the inspector should have a 'sliding' scale of safety measures to follow and affordable intervention strategies suggested, time to repair, or 'ticket/fine' and appeal process.

As I am sure the Building Department had major objections to construction mandates coming from outside of their department, the objections do not negate the need to keep buildings safe. Once other regulating departments enter into construction regulations, a whole layer of problems will surface and might to bring a landslide of impossible regulations down on schools – old or new construction. Resulting in which laws are obeyed, which are mandated and who inspects and approves buildings? Specific regulations must be aligned so that schools know whose regulations they are following: Health or Building Department?

Finally, smaller private schools that share space with another entity (whether religious or non religious); despite the word of the regulation, small schools cannot always obey regulations as they may, for example, use the Sanctuary/Temple areas for assemblies; or utilize only a portion of the building and/or share the building with another entity (such as a church school sharing space with a Montessori school and a Head Start Program.

Again, I appreciate your hard work, and if there is any way I may be of service to you, I am willing to help. I would rather be part of a solution, than a problem.

Janelle Neil  
Head of School  
Academy Schools, Kent, WA  
253-852-4949  
318 5<sup>th</sup> Avenue South  
Kent, WA 98032